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**IN THE
COURT OF APPEALS OF INDIANA**

TIMOTHY BANKS,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 02A03-0604-CR-179
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02A04-0503-FB-26

August 22, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

Timothy Banks appeals his convictions for three counts of sexual misconduct with a minor,¹ as Class B felonies, contending only that the State failed to prove that he knew that the prosecuting witness, B.W., was not yet sixteen years old at the time of the incidents. Banks does not dispute that he was over twenty-one years of age (thirty-two years old), and that he had sexual intercourse as well as oral sex and digital penetration with B.W. between July, 2004 and February, 2005. The evidence most favorable to the judgment shows that Banks celebrated B.W.'s fifteenth birthday with the family in March of 2004, that B.W.'s mother told Banks on August 23 or 25, 2004, that B.W. was fifteen years of age, and that Banks admitted to Detective John Zagelmeier and signed a written statement delineating the specific acts of sexual misconduct with B.W. and that he knew she was fifteen years old at the time. The evidence was sufficient to allow the jury to conclude beyond a reasonable doubt that Banks knew that B.W. was fifteen years old when he committed various sexual acts with her. *See Moon v. State*, 823 N.E.2d 710, 713-716 (Ind. Ct. App. 2005).

Affirmed.

BAILEY, J., and CRONE, J., concur.

¹ See IC 35-42-4-9.